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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

LAVINDER SINGH,

Plaintiff,

v.

EMILIO T. GONZALES, Director, U.S.  
Citizenship and Immigration Services, U.S.  
Department of Homeland Security, Office of the  
Chief Counsel, 20 Massachusetts Avenue,  
N.W., Room 4025, Washington, D.C. 20536,

Defendant.

C 08-1454-MEJ

**ANSWER**

The Defendant hereby submits his answer to Plaintiff's Complaint For Declaratory and Injunctive Relief.

**INTRODUCTION**

1. The defendant denies the allegations in Paragraph One.

2. The defendant denies the allegations in Paragraph Two.

**JURISDICTION AND VENUE**

3. The defendant denies the allegations in Paragraph Three.

4. The defendant admits the allegations in Paragraph Four.

5. The defendant admits the allegations in Paragraph Five.

6. The defendant denies the allegations in Paragraph Six.

7. The defendant denies the allegations in Paragraph Seven.

8. The defendant denies the allegations in Paragraph Eight.

#### **PRELIMINARY STATEMENT**

9. The defendant denies the allegations in Paragraph Nine.

10. The defendant admits the allegations in Paragraph Ten.

11. The defendant denies the allegations in Paragraph Eleven.

12. The defendant denies the allegation in Paragraph Twelve.

13. The defendant denies the allegations in Paragraph Thirteen.

14. The defendant denies the allegations in Paragraph Fourteen.

#### **PARTIES**

15. The defendant admits the allegation in Paragraph Fifteen that plaintiff is a citizen of India, but lacks sufficient information or knowledge to admit or deny the remaining allegations.

16. The defendant admits the allegation in Paragraph Sixteen that USCIS is a entity that exists under the laws of the United States. The remaining allegations consists of conclusions of law to which no responsive pleading is required.

#### **STATUTORY SCHEME**

17. Paragraph Seventeen consists of plaintiff's characterization of the Immigration and Nationality Act, to which no responsive pleading is required.

18. Paragraph Eighteen consists of plaintiff's characterization of 8 U.S.C. § 1255(a), to which no responsive pleading is required.

19. Paragraph Nineteen consists of plaintiff's conclusion of law, to which no responsive pleading is required.

20. Paragraph Twenty consists of plaintiff's conclusion of law, to which no responsive pleading is required.

21. Paragraph Twenty-One consists of plaintiff's conclusion of law, to which no responsive pleading is required.

22. Paragraph Twenty-Two consists of plaintiff's conclusion of law, to which no responsive

pleading is required.

### STATEMENT OF FACTS

23. Defendant is without sufficient information to admit or deny the allegations in Paragraph Twenty-Three.

24. Defendant is without sufficient information to admit or deny the allegations in Paragraph Twenty-Four.

25. The defendant is without sufficient information to admit or deny the allegations in Paragraph Twenty-Five.

26. The defendant admits that plaintiff filed an I-130 petition.

27. The defendant admits the plaintiff was interviewed on his I-130 petition. The defendant lacks sufficient information to admit or deny the remaining allegations in Paragraph Twenty-Seven.

28. Paragraph Twenty-Eight consists of plaintiff's conclusion of law, to which no admission or denial is required.

29. The defendant admits the allegations in Paragraph Twenty-Nine.

30. The defendant admits the allegations in Paragraph Thirty.

31. The defendant admits the allegations in Paragraph Thirty-One.

32. The defendant admits the allegations in Paragraph Thirty-Two, but objects to the characterization of USCIS' actions as a "failure" to issue a waiver of any kind.

33. The defendant denies the allegations in Paragraph Thirty-Three.

34. The defendant admits the allegations in Paragraph Thirty-Four.

35. The defendant admits the allegations in Paragraph Thirty-Five.

36. The defendant denies the allegations in Paragraph Thirty-Six.

37. Paragraph Thirty-Seven consists of plaintiff's characterization of what would happen to his wife if plaintiff departed the country, to which no responsive pleading is required.

38. The defendant lacks sufficient information or knowledge to admit or deny the allegations in Paragraph Thirty-Eight.

39. The defendant lacks sufficient information or knowledge to admit or deny the allegations

1 in Paragraph Thirty-Nine.

2 40. The defendant lacks sufficient information or knowledge to admit or deny the allegations  
3 in Paragraph Forty.

4 41. The defendant lacks sufficient information or knowledge to admit or deny the allegations  
5 in Paragraph Forty-One.

6 42. The defendant lacks sufficient information or knowledge to admit or deny the allegations  
7 in Paragraph Forty-Two.

8 43. The defendant lacks sufficient information or knowledge to admit or deny the allegations  
9 in Paragraph Forty-Three.

10 **FIRST CLAIM FOR RELIEF**

11 44. The defendant incorporates his responses to allegations one through forty-three as if set  
12 forth fully herein.

13 45. Paragraph Forty-Five consists of plaintiff's conclusion of law, to which no responsive  
14 pleading is required.

15 46. The defendant denies the allegations in Paragraph Forty-Six.

16 47. Paragraph Forty-Seven consists of plaintiff's conclusion of law, to which no responsive  
17 pleading is required.

18 48. The defendant denies the allegations in Paragraph Forty-Eight.

19 **SECOND CLAIM FOR RELIEF**

20 49. The defendant incorporates his responses to allegations one through forty-eight as if set  
21 forth fully herein.

22 50. Paragraph Fifty consists of plaintiff's conclusion of law, to which no responsive pleading  
23 is required.

24 51. The defendant denies the allegations in Paragraph Fifty-One

25 **REQUEST FOR RELIEF**

26 The remaining paragraphs consist of plaintiff's request for relief, to which no admission or  
27 denial is required; to the extent a responsive pleading is deemed to be required, the defendant  
28 denies this paragraph.

**FIRST AFFIRMATIVE DEFENSE**

The plaintiff's complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

The Court should dismiss the complaint for lack of subject matter jurisdiction.

**THIRD AFFIRMATIVE DEFENSE**

The Court should dismiss the action as moot.

WHEREFORE, defendant prays for relief as follows:

That judgment be entered for defendant and against plaintiff, dismissing plaintiff's complaint with prejudice; that plaintiff take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: June 30, 2008

/s/  
EDWARD A. OLSEN  
Assistant United States Attorney  
Attorney for Defendant